

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

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**KEVIN CODY and MUGE CODY,** )  
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**Plaintiffs,** )  
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 )  
**v.** ) **No. 1:16-cv-132 (AJT/JFA)**  
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 )  
**MANTECH INTERNATIONAL** )  
**CORPORATION** )  
 )  
 )  
**Defendant.** )  
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**PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiffs Kevin and Muge Cody, by and through counsel, write to bring to the Court's attention an opinion issued by the Department of Labor's Administrative Review Board on September 30, 2016 in *Palmer v. Canadian National Railway*, ARB No. 16-035, ALJ No. 2014-FRS-154, 2016 WL 6024269 (ARB Sept. 30, 2016). A copy of the ARB's opinion is attached to this Notice as Exhibit 1. In particular, pages 32-34 of the opinion define the standard for "contributing factor," including the threshold required for an employee to prove that protected activity was a contributing factor in an adverse employment decision. *Palmer* holds that a contributing factor "need not be significant, motivating, substantial, or predominant—it just needs to be a factor." *Palmer*, 2016 WL 6024269, at \*32. Page 34 also contains discussion of the standard an employer must meet to show by clear and convincing evidence that it would have taken the same action against an employee in the absence of protected activity.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on February 15, 2017, a true and correct copy of the foregoing Plaintiffs' Notice of Supplemental Authority has been served via electronic filing upon the following:

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